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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/666,990	09/19/2003	Artur G. Olszak	P 6121.62023	6660
30615	7590	12/29/2004	EXAMINER	
BIRDWELL, JANKE & DURANDO, PLC 1100 SW SIXTH AVENUE SUITE 1400 PORTLAND, OR 97204			PRITCHETT, JOSHUA L	
			ART UNIT	PAPER NUMBER
			2872	

DATE MAILED: 12/29/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/666,990

Applicant(s)

OLSZAK ET AL.

Examiner

Joshua L Pritchett

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-34 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-34 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 19 September 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. ____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. ____. |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date <u>1/04, 11/04</u> . | 6) <input type="checkbox"/> Other: ____. |

DETAILED ACTION

Claim Objections

Claims 1, 2, 6-10, 17, 23 and 24 objected to because of the following informalities: the claim limitations state that the invention is “adapted” but fail to disclose how the invention was “adapted.” Therefore the examine assumes that any invention that has the same structure as the claim limitations can be “adapted” to perform any claimed function of the claim limitations. Appropriate correction is required.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

Claims 1-3, 5, 8-16, 18-20, 22 and 25-33 rejected under 35 U.S.C. 102(a) as being anticipated by Tafas (US 6,320,174).

Regarding claims 1 and 18, Tafas discloses a scanning imaging system comprising a plurality of sets of optical elements (110) each set being disposed with respect to a corresponding image plane and configured to image respective portions of the object (150, Fig. 1); a scanning

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mechanism (150) for producing relative movement between the sets and the object to scan the object (col. 4 lines 32-35); image sensors (130) corresponding to the sets of optical elements adapted for capturing image data representative of the respective portions of the object imaged thereby (col. 4 lines 20-21); and a mode implementation system (140) for combining the image data according to one or more desired modes of operation of the imaging system (col. 4 lines 28-31).

Regarding claims 2 and 19, Tafas discloses the sets of optical elements are adapted in conjunction with the scanning mechanism to scan the same portion of the object sequentially (Fig. 2, col. 4 lines 55-67).

Regarding claims 3 and 20, Tafas discloses the image data corresponding to different sets of optical elements are registered with one another by the mode implementation system (col. 4 lines 28-31).

Regarding claims 5 and 22, Tafas discloses the image data corresponding to the different sets of optical elements represent respectively different object planes (Figs. 2-3).

Regarding claims 8 and 25, Tafas discloses the set of optical elements are adapted in conjunction with the scanning mechanism to scan different portions of the object simultaneously (Fig. 2).

Regarding claims 9 and 26, Tafas discloses at least two of the sets of optical elements are adapted to scan a larger portion of the object for a given quantity of the movement than can be scanned for the same quantity of movement with only one of the sets of optical elements (Figs. 2-3).

Regarding claims 10 and 27, Tafas discloses the mode implementation system is adapted to concatenate data captured from adjacent sets of optical elements (col. 4 line 67 – col. 5 line 2).

Regarding claims 11, 13, 14, 16, 28, 30, 31 and 33, Tafas discloses the optical elements comprise microscope objectives (Fig. 1).

Regarding claims 12, 15, 29 and 32, Tafas discloses each of the sets of optical elements comprises a microscope array (abstract).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 4, 6, 7, 17, 21, 23, 24 and 34 are rejected under 35 U.S.C. 103(a) as being unpatentable over Tafas.

Regarding claims 4 and 21, Tafas teaches the invention as claimed but lacks reference to the use of the optical elements to represent different colors. It is extremely well known in the art to use red, green and blue (RGB) optical elements to capture a microscope image. Official Notice is taken. RGB optics is used to obtain a better electronic image quality to better examine the object. It would have been obvious to a person of ordinary skill in the art at the time the

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invention was made to have the optical elements of Tafas represent different colors as is known in the art for the purpose of obtaining a better electronic image of the object being examined.

Regarding claims 6, 7, 23 and 24, Tafas teaches the invention as claimed but lacks specific reference which type of microscopy the invention is used for. It is well known in the art to use the same microscope objectives for both trans-illumination and fluorescent microscopy. Official Notice is taken. In either case the objective would remaining in the same position relative to the object and the location of the light source would change. Tafas states only that a light source is used to illuminate the object (col. 4 lines 32-40), but is silent as to the location of the light source. Therefore the Tafas invention would be compatible with either trans-illumination or fluorescent microscopy. Furthermore the claim limitations state that the objectives are adapted but fail to state how the objectives are adapted. It would have been obvious to one of ordinary skill in the art at the time the invention was made to have the Tafas invention be capable of both trans-illumination and fluorescent microscopy as is known in the prior art for the purpose of increasing the versatility of the microscope array.

Regarding claims 17 and 34, Tafas teaches the invention as claimed but lacks reference to the use of a scanning tray. It is extremely well known in the art to have the microscope objective disposed in a tray that is capable of moving relative to the object for the purpose of scanning the object. Official Notice is taken. It would have been obvious to a person of ordinary skill in the art at the time the invention was made to have the Tafas objective scan the object as is known in the art for the purpose of scanning the object while keeping the object stationary to prevent any disturbance of the object.

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Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Joshua L Pritchett whose telephone number is 571-272-2318.

The examiner can normally be reached on Monday - Friday 7:00 - 3:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Drew A Dunn can be reached on 571-272-2312. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

JLP 


DREW A. DUNN
SUPERVISORY PATENT EXAMINER